IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13/08/2004

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THE HONOURABLE Mr.JUSTICE M.CHOCKALINGAM

W.P.No.1288 of2001
and
W.P.No.1289 of 2001

North Arcot District Civil
Court Public Servants Co-operative
Society, Vellore, rep. by its President .... Petitioner in
both W.Ps.

-Vs-

1. The Joint Registrar of Co-operative
Societies, Office of the Joint
Registrar, Vellore District,
Vellore. .... Respondent in
both W.Ps.

2. R.Kumaravel .... Respondent in
W.P.No.1288/01

M.Gnanasekaran .... Respondent in
W.P.No.1289/01
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Writ petition filed under Article 226 of The Constitution of India
praying for the issuance of writ of certiorari calling for the records
relating to the impugned proceedings of the first respondent in
R.P.No.7/2000/A.2 dated 5.9.2000 and R.P.No.6/2000/A.2 dated 22.9.2000 and
quash the same.

For Petitioner : Mr. A.P.Venkataraman

For Respondents : Mr. Rathinavel, G.A.-R1 (both the W.Ps.)
No appearance - R2(both the W.P.S.)

:COMMON ORDER

Both these writ petitions have been brought forth to quash the
order of the first respondent, namely the Joint Director of Co-operative
Societies, Vellore District made in R.P.Nos.7 and 6 of 2000/A2 dated 5.9.2000
and 22.9.2000 respectively by issuing a writ of certiorari.

2. Affidavit in support of the writ petitions and counter affidavits filed by the second respondent in both the writ petitions are perused. The contesting second respondent has not appeared. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the first respondent.

3. From the available materials the following would emerge as admitted facts.
The second respondent in W.P.No.1288 of 2001 and the second respondent in W.P.No.1289 of 2001 were working as clerk in the North Arcot District Civil Court Public Servants Co-operative Society. While so, on the basis of the charges levelled against them, both were suspended on 09.10.1997. Pursuant to the charges levelled against the second respondent in both the writ petitions, after calling for explanation from both, which were not satisfactory, a domestic enquiry was conducted, in which both were terminated from service. Aggrieved over the same, both preferred R.P.Nos.7 and 6 of 2000 before the first respondent.

4. A very reading of the order of the first respondent, namely, the Joint Director of Co-operative Societies would indicate that the same has been passed without any application of mind and without even considering the orders of termination. Pursuant to the elaborate enquiry, nearly 30 charges were levelled against the second respondent in both the writ petitions. It is not a case where the second respondent in both the writ petitions have not been given an opportunity of being heard, but, the materials would indicate sufficient opportunities were given. An enquiry has been conducted properly, which resulted in an order of termination of both. It is pertinent to point out that the revision petitions were filed after four months from the date of orders of termination. Needless to say that the revision petitions were filed out of time, since they were not filed within a period of 90 days. A reading of the order of the first respondent, which is challenged in these writ petitions would clearly indicate that it is a non-speaking order. No where the first respondent, a responsible authority, has even care to consider or discuss the charges levelled against them, the evidence adduced by the Department or recorded reasons to set aside the order of termination of both the delinquents. It can be stated that he has not properly exercised the powers vested on him.

M.CHOCKALINGAM,J

But he has set aside the orders of termination in a very casual manner and that too in a case, where grave charges of misappropriation were levelled against them.

5. Hence, without any hesitation this court is of the considered opinion that the orders passed by the first respondent have got to be quashed. Accordingly, the order of the first respondent is quashed. However, in view of the circumstances, the matter is remitted back to the first respondent to dispose of the matter afresh in accordance with law by exercising his power properly within a period of two months here from. No costs.

Index :Yes
Internet:Yes

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To

1. The Joint Registrar of Co-operative
Societies, Office of the Joint
Registrar, Vellore District, Vellore.

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